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State Capitol North, 325 Don Gaspar, Suite 200
Santa Fe, New Mexico 87501
PH: (505) 986-4591 FAX: (505) 986-4338
<http://legis.state.nm.us/lcs/lesc/lescdefault.asp>



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August 9, 2006

MEMORANDUM

TO: Legislative Education Study Committee

FR: Frances R. Maestas

**RE: STAFF BRIEF: TEACHERS AND SCHOOL-AGE CHILDREN IN OTHER
STATE AGENCIES**

The 2006 interim workplan of the Legislative Education Study Committee (LESC) includes a presentation on the teachers and school-age children in state agencies or state institutions other than public schools.

Issues:

Compensation of Teachers

- Since 2004, the Legislature has provided an appropriation in the compensation section of the *General Appropriation Act* to provide teachers employed by the following state agencies with the same salary increase provided for public school teachers: the Department of Health (DOH); the Corrections Department; the Children, Youth and Families Department (CYFD); and the Commission for the Blind.
- In 2006, the Legislature included language in the *General Appropriation Act* providing additional dollars to these agencies "for statutory minimum salaries for level three-A teachers" in FY 07. However, according to Legislative Finance Committee (LFC) staff, only CYFD requested and received additional funding for its Level 3-A teachers. (The other three agencies – DOH, Corrections, and the Commission for the Blind – either have no Level 3-A teachers or compensate their teachers above the salary minimums).

- Also, according to LFC's *2006 Post Session Review*, \$12,500 was appropriated to the Higher Education Department for the New Mexico School for the Deaf to provide Level 3-A minimum salaries in FY 07. (According to New Mexico School for the Deaf staff, the agency requested \$55,000 to meet the salary minimums.)
- According to the *School Personnel Act*, the term "state agency" means "any state institution or state agency providing an educational program requiring the employment of certified school instructors." Based on PED's state accountability plan, two state-supported residential schools were not included in the appropriations for salary increases and three-tier minimum salaries: the New Mexico School for the Blind and Visually Impaired and Mimbres School-Children's Psychiatric Center.
- Thus, one issue that appears to remain unresolved is whether all state agencies that employ licensed teachers have been included in appropriations for teacher compensation, including three-tier minimum salaries.

Evaluation of Teachers

- Among its provisions, the *School Personnel Act* requires any person teaching, supervising an instructional program, or providing instructional support services in a public school or state agency to hold a valid license or certificate from the Public Education Department (PED).
- The act further states that the three-tier licensure framework and minimum salaries apply to teachers on a standard nine and one-half month contract. According to PED, a standard nine and one-half month teaching contract consists of at least 180 instructional days or the equivalent thereof, plus additional required professional development days. (According to LESC data [see Attachment], the length of contract for licensed teachers varies among state agencies.)
- The *School Personnel Act* also requires that minimum salary levels cannot take effect until PED has adopted increased competencies for the particular level of licensure and a highly objective uniform statewide standard of evaluation (HOUSSE). However, LESC data indicate that not all of the agencies employing licensed teachers evaluate their teachers using HOUSSE.
- Thus, another issue appears to be an inconsistent connection between teacher evaluation and compensation among the state agencies employing licensed teachers.

Adequate Yearly Progress of Students and Institutions

- As required in the federal *No Child Left Behind Act of 2001* (NCLB), "adequate yearly progress" (AYP) is a prescribed degree of improvement, primarily in student achievement, that schools are expected to make each year – not only for their entire student populations but also for certain subgroups of students: economically disadvantaged students, major racial or ethnic groups, students with disabilities, and English Language Learners.
 - States are further required to hold all students to the same standards, with the provision that states measure the achievement of students with the most significant cognitive disabilities based on alternative assessments.

- According to NCLB regulations, the fundamental purpose of the insistence upon AYP is “that the best education possible is provided to each and every student.” The result, according to NCLB itself, should be “continuous and substantial academic improvement for all students.”
- In its state accountability plan, approved by the US Department of Education (USDE) in 2005, PED has elected to treat as if they were public schools the state agencies that serve neglected, delinquent, and at-risk children and youth because these agencies, like public schools, receive Title I funds. PED includes a separate district code for “alternative schools” (state-supported residential schools, including the New Mexico School for the Blind and Visually Impaired, the New Mexico School for the Deaf, Mimbres School-Children’s Psychiatric Center, and the juvenile detention facilities) and includes these facilities in its requirements for meeting AYP.
 - Although PED has included state-supported schools in its state accountability plan, the nonregulatory guidance for NCLB requires only that teachers employed by school districts or other entities under the authority of the state education agency be highly qualified in the core academic subjects that they teach.
 - On the other hand, the federal *Individuals with Disabilities Education Act* requires special education teachers who teach multiple core academic subjects exclusively to students with disabilities – regardless of where they teach – to be highly qualified in all subjects they teach.
- Currently, state agencies provide educational services for approximately 480 school-age children statewide. This number does not include the New Mexico School for the Blind and Visually Impaired, which did not provide data, and the Mimbres School. This school serves approximately 650 school-age children each year, but it maintains a capacity of 74 students and it limits any student’s stay at the facility to 23 calendar days.
- In addition to those noted above, certain other federal requirements apply to students outside the traditional public school setting.
 - Title I, Part D of NCLB requires that the state plan for meeting the educational needs of neglected, delinquent, and at-risk children and youth include an assurance that the state will carry out a program evaluation, disaggregating data by gender, race, ethnicity and age, not less than once every three years to determine the program’s impact on participants, using “multiple and appropriate measures of student progress.”
 - According to USDE nonregulatory program guidance for Title I, Part D, the high turnover and limited length of stay of children and youth in many of these institutions may preclude state agencies or school districts from using “the same measures as are applied to children who attend school in a more traditional setting.”
 - In particular, the guidance notes that “many of the students do not reside in an institution for a full academic year, and the AYP provisions . . . are based on assessment results for students who are in the schools . . . for at least one full academic year.” The New Mexico state accountability plan was updated in October, 2004 to define *full academic year* for AYP purposes as the period “from test cycle to test cycle.”

- A related assessment issue is the notification that the New Mexico Secretary of Public Education received recently from the USDE that the state's assessment system does not meet "all the statutory and regulatory requirements" of NCLB. Of particular concern are the state's alternate assessments, both those in Spanish and those for special education students. As a result, the state has been placed under "Mandatory Oversight," a status that requires bi-monthly progress reports on compliance beginning in September 2006 and leading toward full compliance by the end of school year 2006-2007.
- These circumstances and requirements raise a number of issues, among them: which agencies or institutions should be included in AYP, which assessments should they use for their students, when alternate assessments will be available, when the assessments should be administered, which students should be excluded from assessments, and what qualifications should be required of the teachers.

Presenters:

For this presentation, Mr. Roger Gillespie, Director, Juvenile Justice Services, CYFD, and Ms. Jean Davidson, Superintendent of Education, CYFD, will discuss issues relating to the education of school-age children in CYFD facilities statewide, including the compensation of the department's licensed teachers. In addition, representatives of other agencies will be present to respond to questions.

Questions the committee may wish to consider:

1. What year did CYFD begin to implement salary minimums for its licensed teachers?
2. With what funds did CYFD provide minimum salary levels for its licensed teachers prior to FY 07? Were those minimums prorated for the additional contract days required for employment with the agency?
3. Who evaluates licensed teachers employed by state agencies or institutions?
4. What timetable are state agencies and institutions using to ensure that teachers who must be highly qualified meet that requirement?
5. What percentage of licensed teachers employed by CYFD is highly-qualified in the core subjects that they teach?
6. How do state agencies assess student achievement for the programs under their supervision?
7. What criteria do state agencies use to determine which students are included in their calculation of AYP?
8. How do state agencies, which PED has coded as separate districts, report AYP data to PED?
9. What are the consequences if, over the course of multiple years, educational programs in state agencies fail to meet AYP?

ATTACHMENT

Selected State Agencies Providing Educational Services to School-age Children

Agency	Facility	Number of Licensed Teachers	Licensure Level(s)	Employee Status	Length of Contract, if applicable	Teacher Evaluation Component	Number of School Age Children Being Served	Ages of Students	Description of Services
Department of Health	Saguoyah Adolescent Treatment Center	6	Level 2 (4) Level 3 (2)	contract	220 days	Annual PDP to meet PED requirements	36 mentally ill, violent adolescent males	13-18	Education case management, including writing lesson plans, teaching in a self-contained classroom, writing IEP's, writing Education Treatment plans, participating in daily rounds, weekly team meetings. Teachers also participate in transition planning and attend IEP meetings throughout the state when a student returns to his home school.
Corrections	New Mexico State Penitentiary	52	Level 2	contract	220 days	PDP established annually by 40th day of school, based on 9 state teaching competencies by licensure level	None under age of 18 (refer to "Description of Services")		Provide appropriate educational opportunities to eligible inmates to improve their education, vocational, cognitive, employability and pre-release knowledge and skills, including Adult Basic Education, General Educational Development (GED) for students who have not earned a high school diploma, English as a Second Language, and special education.
Children, Youth & Families	Juvenile Justice Facilities include: (1) Mountainview High School (NM Boys' School) (2) Foothill High School (Youth Diagnostic & Development Center in Albuquerque) (3) Sierra Blanca High School (Camp Sierra Blanca at Fort Stanton), and (4) Aztec Youth Academy (J. Paul Taylor Center in Las Cruces)	47	Level 1 (4); Level 2 (27); Level 3 (16)	contract	220 or 230 days	All teachers complete a PDP by 40th day of school year and are assessed using 3-tier licensing requirements and teacher competencies required by PED	273	14-19	Evidence-based, research programs are provided at all schools that are often prescriptive and technology based, with one-on-one instruction important for academic improvement over a short time. New Mexico Standards for Excellence-based curriculum at high school level and remediation programs in reading and math.
Commission for the Blind	Two summer programs: (1) orientation (residential) center in Alamogordo and (2) a day program in Albuquerque.	8	varied	temporary term exempt	summer months	N/A	30	14-21	Students in Transition to Employment Program (STEP) assists individuals in the process of transition from school to work
School for the Deaf	The School for the Deaf maintains three facilities: (1) Santa Fe main campus (2) Albuquerque Preschool/Kindergarten, and (3) Las Cruces Preschool.	26	Level 1 (10); Level 2 (6); Level 3 (10)	contract	184 days	3-tiered Licensure Performance Evaluation and Professional Development System provided by PED	142	2-21	PED's Standards and Benchmarks serve as the framework for providing access to the general curriculum via accommodations in instructional methodologies and techniques to meet the unique needs of students who are deaf and hard of hearing. The School for the Deaf is a 100 percent special education school.